uncouth and despotic [nomadic] Arabs who did not contest them, they dressed in the most luxurious Muslim clothes, since they did not do that in the settled areas. May God quell their pomp, and give strength to Islam through their abasement and humility. Nowadays they are into greater matters than that. May God restore the split in Islam,[95] for the hearts of rulers are in His hands.

The Fatwā of al-ᶜAbdūsī on harshness in the ban of establishing of a shrine for Jews

May God have mercy on the *shaykh*, the Imam, the protector of the Maghrib, Abū 'l-Qāsim al-ᶜAbdūsī, a resident of Tunis. He gave a *fatwā* on the matter of the meaning of the question of what restores appearance through the brighness and light that is upon it. This is the text of the question: Praise be to God. My master, may God be pleased with you all, and grant Muslims enjoyment of your life; [please give] your reply concerning a newly built village in the territory of the Muslims, where Jews—may God degrade them—set up a new *kanīsa*, and they undertook worship in it, in accordance with their polytheism, to the point that God inspired some eminent Muslims of the people of knowledge and religion, who wished God's blessing through it; so he saw of the breach in religion, and the disgrace upon Muslims, that elements of idolatry were installed in the lands of the Muslims, and so he ordered that the aforementioned *kanīsa* be destroyed and its influence obliterated, and thus something greatly objectionable was cut off and heresy extinguished. Then the aforementioned Jews—may God humiliate them—wished to renew the construction of it and to return to what was they were up to in promoting their religion and surviving their practice. Through that no protection for them was concluded, nor was any *jizya* imposed upon them. Can they deal with that, or not? Your reply, you rewarded ones, and peace [be upon you].

The Reply: Praise be to God. They may neither establish, nor restore, any [place of worship] in the territories of the Muslims. So said Ibn al-Qāsim on the authority of Mālik, in the section on "Pay and protection" (*Kitāb al-jaᶜl wa 'l-ijāra*) in *al-Mudawwana*.[96] If they do this, after having been forbidden to do so, it constitutes a breaking of the [bond of]

protection that they have. There is a consensus to the effect that none of them may establish a new place of worship or restore [an old one] in the territories of the Muslims. If they are forbidden to do so and do not desist, this constitutes an act of breaking the pact. As a result, their wealth goes to the Muslims, and their offspring are deemed liable to the dominion of militarians in the non-Muslim lands. And their children and women-folk belong to the Muslims.

The *shaykh*s of the Maghrib gave *fatwā*s before this, saying that they had no bond [of protection] without this, so what is your thought on this matter? Whoever gives a reason for restoring the synagogue to them, and supports them with that, or causes them to be successful, believing in its embellishment, then he is an unbeliever, or, if not, then at least a sinner upon whom descends the curse of God and His Messenger—may God bless him and grant him peace—[250] for he said: "Whoever commits a misdeed, or gives shelter to one who commits a misdeed, upon him be the curse of God and His angels and the whole of humanity". He also said: "Whoever was pleased with what people did, was a sharer with them". Our Lord—Exalted is His Majesty—said: "Thou wilt not find folk who believe in God and the Last Day loving those who oppose God and His Messenger, even though they be their fathers [or their sons or their brethren or their clan. As for such people, He has written faith upon their hearts and strengthened them with a Spirit from Him. And He enters them into gardens with rivers beneath them, wherein they will continually exist—God being pleased with them, and they with Him. They are God's party. Lo! is it not God's party who are successful?" [Qurᵓān 58:22].[97] And change fears him at the end. The traditions and *ḥadīth*s on this subject are more numerous than given here'.

Abū 'l-Qāsim al-ᶜAbdūsī—may God treat him gracefully—wrote: "Take a look at the reply of this imam——may God be pleased with him—as if it were manifested that that did not occur from them, except through designated Muslims, who apply it as a pretext to attain their desire. Whilst his command on that is under way between unbelief and sinfulness, necessitating the curse of God, the angels, and the whole of humanity, and fear of changing of the conclusion, we seek protection of God from what forces us to go astray. Don't you see that he did not mention this section to him in the inquiry, nor was it hinted to him in it?

But when God granted him some light of insight, it was revealed that he would not be that except through that.

If, in the *madh'hab*, there had been no text, except what occurred in the reply of this *shaykh*, it would be convincing in the issue of the question of how about that, with the texts of former and recent persons?[98]

Maghribī shaykhs in the Age of the Marīnids (1196-1299) gave fatwās denying Protection for Jews

What he referred to in the reply was that the *shaykhs* of the Maghrib had no protection for themselves in what was below/before this; that is their selling wine to Muslims, and their conspiracy in doing this after being banned from so doing. This was agreed upon in the days of Yūsuf b. Yaᶜqūb b. ᶜAbd al-Ḥaqq al-Marīnī,[99] so they were killed for that and made prisoners throughout all the Marīnid territory, as was mentioned by al-Khazrajī, the *qāḍī* of Bādis and elsewhere in Al-Rīf[100] in the reign of Yūsuf b. Yaᶜqūb. What we have obtained about Mālikī imams on this question is not what only they have done. Indeed, that is the ruling of the people of all schools of law (*madhāhib*). This Shāfiᶜī imam says: "It is necessary for the imam, in relation to the *dhimmīs,* to make limits on all that he gives them, and to take it from them, so that they raise up the *jizya* and submit it, being humble, provided that the rulings of Muslims act upon them when a claimant makes a demand of them, and provided that, in any metropolis of the Muslims, they do not initiate any *kanīsa* and do not assemble for their worship—[etc.], to the end of what he mentioned: "We deducted from him the needed place". That was quoted of by Ibn al-Munāṣif and Ibn al-Mundhir. Al-Māwardī and al-Ghazālī said something like that, in dealing with what is relevant to the matter of the demand. [251] *Shaykh* Abū 'l-Ḥasan al-Qaddūri of the Ḥanafī *madh'hab* said in his *Mukhtaṣar*: "It is not permissible to initiate a church (*bīᶜa*) or a synagogue (*kanīsa*) in the territory of Islam."[101]

When Ibn al-Mundhir quoted what we mentioned from al-Shāfiᶜī, he quoted something like it from doctrinaires—that is Ḥanafites. And he mentioned that Aḥmad ibn Ḥanbal—may God be pleased with him—said: "*Dhimmīs* may not demonstrate of their religion any matter that was not in their peace agreement. This is what Ibn Ḥazm al-Ẓāhirī mentioned in the book *Marātib al-Ijmāᶜ*: "He has agreement of the scholars (*al-ᶜulamāᵓ*) on the taking of *jizya* from Scripturists (*ahl al-Kitāb*), provided they do not initiate a synagogue or a church." These scholars of Islam—Mālikīs, Shāfiᶜīs, Ḥanafīs, Ḥanbalīs, and Ẓāhirīs,[102]—have nothing [in their law opinions] except prevention of initiating *kanīsas*.

[It results from all this that] the problem is one on which there is consensus. We have already mentioned that some of the commentators on *al-Mudawwana* declared the transmission of a consensus on this matter. We indicated, immediately following the statement of Ibn Sahl to the necessary *fatwā* of the imams of consultancy (*aᵓimmat al-shūrā*) in Cordova, that the problem was one on which there was consensus. Abū Bakr al-Ṭurṭūshī also declared there was consensus on it, as did Ibn Badrān and Ibn Ḥazm, in addition to al-ᶜAbdūsī in his preceding *fatwā*. The answer is for every capable Muslim to endeavor demolition of the synagogue for which he is responsible with the power of his capacity. He should make as much effort as possible to do that, since this is one of the greatest jihads. If anyone should try to stop him from doing that, then the response of the Imam of the Maghrib, Abū 'l-Qāsim al-ᶜAbdūsī is complete regarding him, inasmuch as he assigned him as intermediating between "unbelief" and "sinfulness" which calls forth upon him the curse of God, His angels, and all human beings.

Continued Existence of what is objected to, or its Abundance, does not change the Legal Ruling on it.

There is no argument for them on prolonged possession [of the land on which the synagogue is built], since its objective is to show control of the possession; and it has already been stated that, in consideration of the rights of Islam, ownership of the perpetual lease, whether by valid gift or sale, does not permit them to build a synagogue.

So what about possession that falls short of outright ownership? The authoritative texts of the [Mālikī] *madh'hab* are in agreement that what has in it the right of God Most High has no effect for possession, like property the yield of which is devoted to pious purposes. Rather, they stated that authority over them is not suspended, even if a judge issues a judgment concerning them. How is it, with no judgment about